THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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WRIT PETITION No.16940 of 1997

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Date: 05.01.2007

Between:

Y. Raja Rathnam and others

… Petitioners

and

The District Collector, Nellore and others

… Respondents

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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WRIT PETITION No.16940 of 1997

O R D E R:

This writ petition has been instituted seeking a declaration that the inaction of the respondents in not considering the claim of the writ petitioners for assignment of land of an extent of Ac.0-41 cents situate in Survey No.199/5 of Tadakandriga Village, Tada Mandal, Nellore District, as illegal.

The four writ petitioners assert that they have encroached upon a total extent of Ac.0-41 cents of land situate in Survey No.199/5 of Tadakandriga Village, as it is lying vacant. The said land belongs to the Government. They have also asserted that the first petitioner is working as a Technician in Nippo factory located in nearby Tada Village, while the second petitioner as a Head Constable in III Town Police Station of Nellore Town, while the third and the fourth petitioners as Constables at Kavali Rural Police Station and Balajinagar Police Station of Nellore Town respectively. They seem to have submitted representation soliciting assignment of land occupied by them. However, the Mandal Revenue Officer appears to have issued a notice under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act') directing them to show cause as to why they be not evicted under Section 6 of the said Act.

The counter-affidavit asserts that notice under Section 7 of the Act has been served on 17.10.1986 and that since the petitioners have

failed to vacate the land and also failed to show cause as to why they shall not be evicted, hence orders were passed under Section 6 of the Act on 24.10.1986. It appears, the writ petitioners have moved the Government in the matter. The Government seems to have passed orders on 27.10.1986 staying the proposed eviction of the writ petitioners. The counter-affidavit further asserts that the District Collector has prepared a detailed report pointing out that the writ petitioners are not poor persons to be eligible to be assigned the land in question, inasmuch as petitioners 2 to 4 are Government servants, employed as they are with the Police Department, while the first petitioner is gainfully employed in the private sector and hence they are ineligible to be granted any such assignment. The District Collector also seems to have suggested that the land in question can be assigned in favour of eligible poor persons, who are residents of Tadakandriga Village where the land is situated, instead of entertaining the claim of the writ petitioners, who are not normally residents of the said Village. It appears, the Commissioner of Land Revenue had also endorsed fully the views of the District Collector, Nellore. Taking an overall view of the matter, the State Government has passed orders through their memo, dated 06.02.1996, duly vacating the orders of stay of eviction granted in favour of the writ petitioners on 27.10.1986. Obviously, sensing that the mood of the revenue administration was not in their favour of getting assigned the land in question, the writ petitioners appear to have voluntarily vacated and abandoned the same. The Counter Affidavit further asserts that the revenue administration had retrieved the possession of the Government land and also assigned the same as house sites to 21 eligible poor persons of the Village through the proceedings of the Mandal Revenue Officer, dated 01.07.1997. The counter affidavit further asserts that those eligible beneficiaries have been inducted into possession of the said land. The counter-affidavit has further asserted

that the revenue administration has never entertained the false hopes of the writ petitioners and assigned the said land ultimately in favour of eligible poor persons.

The writ petitioners have made no efforts to demonstrate the inaccuracy of any of the above statements of fact. Nor could they establish any right to have the land occupied by them assigned to them only. Even otherwise, if the petitioners 2 to 4 are working with the Police Department, their status does not give them a right to indulge in a lawlessness act of unauthorisedly encroaching and occupying the Government land. The first petitioner is also described as to have been gainfully employed as a technician with Nippo factory located in nearby Thada Village. Thus, he is equally ineligible to be granted a house site or land by the State Government. The writ petitioners have no right of any manner either to encroach or occupy the land belonging to the Government or for that matter that of any private persons. Such lawlessness exhibited by the writ petitioners cannot be countenanced and hence, the writ petition deserves to be dismissed.

The writ petition is accordingly dismissed, but, however, without costs.

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(NOOTY RAMAMOHANA RAO, J)

5th JANUARY, 2007.

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